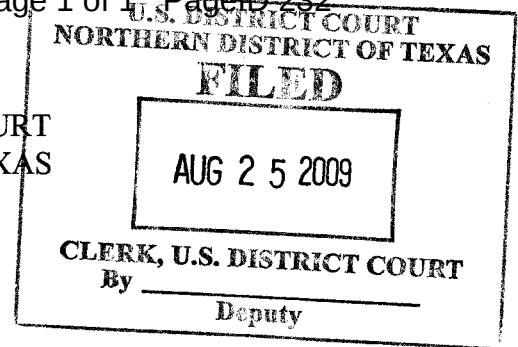


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



STEPHEN P. MILLER

v.

UNITED STATES OF AMERICA

§
§
§
§
§

2:08-CV-243


ORDER ADOPTING REPORT AND RECOMMENDATION and
DISMISSING IN PART MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE

Defendant has filed a motion to vacate, set aside or correct sentence by a person in federal custody. A Report and Recommendation was issued by the United States Magistrate Judge on August 7, 2009. The Magistrate Judge recommended dismissing petitioner's motion to vacate on issues 3, 4, 5, and 6. The Magistrate has reserved issues 1 and 2 for further determination. No objections to the Report and Recommendation have been filed of record as of this date.

The United States District Judge has made an independent examination of the record in this case and has examined the Report and Recommendation of the Magistrate Judge. The District Judge is of the opinion the Magistrate Judge's Report and Recommendation should be, and hereby is, ADOPTED. Accordingly, issues 3, 4, 5, and 6 of defendant's motion to vacate are DISMISSED. Issues 1 and 2 have not been addressed and the referral of the motion to vacate to the Magistrate Judge remains in effect.

IT IS SO ORDERED.

ENTERED this 25th day of August 2009.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE